

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

STATE OF TEXAS, STATE OF §
LOUISIANA, STATE OF MISSISSIPPI, §
STATE OF UTAH, JEFFREY W. §
TORMEY, GUN OWNERS OF §
AMERICA, INC., GUN OWNERS §
FOUNDATION, TENNESSEE §
FIREARMS ASSOCIATION, *and* §
VIRGINIA CITIZENS DEFENSE §
LEAGUE, §
Plaintiffs, §
v. §
BUREAU OF ALCOHOL, TOBACCO, §
FIREARMS AND EXPLOSIVES, §
UNITED STATES DEPARTMENT OF §
JUSTICE, MERRICK GARLAND, in §
his official capacity as Attorney General §
of the United States, *and* STEVEN M. §
DETTELBACH, in his official capacity §
as Director of ATF, §
Defendants. §

DECLARATION OF C. RICHARD ARCHIE

1. My name is C. Richard Archie. I am a U.S. citizen and resident of Tennessee. I make this declaration in support of Plaintiffs' Complaint for Declaratory and Injunctive Relief. Unless otherwise stated, I make this declaration based on personal knowledge. If called as a witness, I can testify to the truth of the statements contained herein.

2. I am one of the directors for the Tennessee Firearms Association ("TFA") and specifically oversee the western division of the state. Over the last few years, I am also one of the individuals

who represents the interests of TFA and its members in advocacy in the Tennessee Legislature, which activities put me in regular contact with TFA's members and supporters.

3. In my role with TFA, I am engaged in daily contact with members and supporters of TFA regarding their concerns, questions, requests, and suggestions on how TFA can best represent their interests.

4. TFA has its principal place of business in Nashville, Tennessee. It is organized and operated as a non-profit membership organization under Tennessee law. It is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. TFA was formed in 1995 to preserve and defend the Second Amendment rights of gun owners. TFA has several thousand members and supporters in Tennessee, along with a number who reside in other states. Although a significant number of TFA's members are owners or responsible parties under existing federal firearms licenses, many other TFA members do not consider themselves to be firearms dealers, and have opted not to apply for any category of federal firearms license. Many of TFA's members and supporters would be irreparably harmed by the Department of Justice's ("DOJ") Final Rulemaking entitled "Definition of 'Engaged in the Business' as a Dealer in Firearms" ("Final Rule").

5. Since ATF's Notice of Proposed Rulemaking ("NPRM") was announced in 2023, a material concern of a significant number TFA's members and supporters has been that this Rule will be used to mandate (or threaten) that ordinary gun owners engaged in lawful activity nevertheless must become licensed as Federal Firearm Licensees ("FFL"), attendant with all the warrantless inspections and paperwork requirements that come along with obtaining and maintaining an FFL, simply to sell their privately owned firearms in an entirely personal and non-business capacity.

6. Further, because Tennessee law incorporates by reference in Tennessee Code Annotated § 39-17-1316 the federal definition of a “gun dealer” as defined in 18 U.S.C. § 921, the Final Rule will foreseeably result in TFA members being classified as unlicensed gun dealers under state law and/or subject to various provisions of state law that only apply to federally licensed gun dealers.

7. Traditionally, law abiding Americans have been able to buy and sell personal firearms from their collections without the fear of being labeled as a “dealer” that is “engaged in the business” of dealing in firearms, and largely without government oversight.

8. Our members and supporters desire and support TFA’s involvement in litigation to protect their right to acquire firearms easily and unimpeded by government, rights that are being unconstitutionally infringed by ATF’s Final Rule.

9. TFA hears from our members and supporters on various topics, including such topics as the Final Rule, which allows us to direct our resources (including to litigation) where they are needed most. As a result, TFA is actively involved in litigation in Tennessee and in various federal court cases to challenge laws because they violate the Second Amendment, particularly when those federal statutes, regulations and rules have a direct impact on Tennesseans, as the Final Rule would.

10. Since both the NPRM was announced and the Final Rule published, TFA has heard from members and supporters who will be impacted because they have in the past bought and resold firearms, and wish to do so in the future without being improperly labeled as a “dealer” in firearms. Such persons are unsure if the ATF will consider them to be “engaged in the business” of dealing in firearms without a license, and thus whether they will be at risk to have civil actions brought against them, or even be criminally charged or raided by federal officials.

11. And once licensed as dealers, our members and supporters will be subject to ATF's license revocation policies and procedures under the bureau's relatively new "zero tolerance" policy.

12. This "zero tolerance" policy was announced on June 23, 2021 by President Biden as part of a purported "Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety."¹ Part of that "strategy" was "establishing zero tolerance for rogue gun dealers that willfully violate the law," described as "a new policy to underscore zero tolerance for willful violations of the law by federally licensed firearms dealers that put public safety at risk." This "zero tolerance" policy has had a profound and negative effect on the firearms community, leading to massive increases in the number of FFLs who are seeing their licenses revoked for a variety of inconsequential misunderstandings and technical paperwork violations.

13. The harms threatened by the Final Rule, and reasonably feared by many TFA members, are far from speculative. Rather, they are a certainty if the Final Rule is allowed to take effect. The harms created by Final Rule, which will have a ubiquitous and negative effect on the firearms community, are still yet to be fully realized, as the Final Rule has yet to be fully implemented.

14. Protection of the rights and interests advanced in this litigation is germane to TFA's mission, which includes the effort to preserve and protect the Second Amendment and the rights of Tennesseans to keep and bear arms, including against overreach by unelected and unaccountable anti-gun bureaucrats. TFA has several years of experience in supporting litigation as an amicus party throughout the country, including numerous filings with the United States Supreme Court, on behalf of its members and supporters. TFA is capable of fully and faithfully representing the interests of its members and supporters without participation by each of the

¹ See <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/>

individuals and entities.

I, C. Richard Archie, declare under penalty of perjury that the foregoing is true and correct.

5/30/24

DATE


C. RICHARD ARCHIE